

Remarks

Reconsideration of the above referenced application in view of the enclosed remarks is requested. Existing claims 1-37 remain in the application. No new amendments are presented.

ARGUMENT

Claims 1-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-28 of USPN 6,990,577 to Autry (hereinafter, "Autry"). This rejection moot based on the concurrent filing herewith of a terminal disclaimer to USPN 6,990,577.

Claims 1-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-37 of copending application Ser. No. 10/820,532 (Atty Docket No. P17838) to Mihm et al. (hereinafter "Mihm et al."). This rejection is respectfully traversed as being improper and Claims 1-37 are believed allowable based on the following discussion. It should be noted that the Examiner has actually made a self-referential error in this rejection. However, it is understood that the Office Action meant to reference to above Mihm et al. application (ser. No. 10/820,532).

Since Mihm et al. has not yet issued, it is improper to require a terminal disclaimer or to reject the claims based on an obviousness-type double patenting rejection. This rejection should have been *provisional*, contingent upon the issuance of the Mihm et al. application. If the Mihm et al. application should issue before the present application, Applicants agree to file a terminal disclaimer to said patent. However, until such time, Claims 1-37 are in condition for immediate allowance and should be permitted to issue at the earliest possible time.

Applicants respectfully request the Examiner to permit this application to issue immediately, or to present a subsequent Office Action requiring a terminal disclaimer to an issued patent (i.e., when Mihm et al. issues as a patent). Until such time as the Mihm et al. application issues as a patent, the present application is, by right, in condition for allowance.

CONCLUSION

In view of the foregoing, Claims 1-37 are all in condition for immediate allowance. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (703) 633-6845. Early issuance of Notice of Allowance is respectfully requested. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

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/ Joni D. Stutman-Horn / _____

Joni D. Stutman-Horn, Reg. No. 42,173
Patent Attorney
Intel Corporation
(703) 633-6845

Intel Corporation
c/o Intellevate, LLC
P.O. Box 52050
Minneapolis, MN 55402